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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,699	05/27/2005	Masato Doi	112857-470	8615

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EXAMINER	
MCCLELLAND, KIMBERLY KEIL	
ART UNIT	PAPER NUMBER
1791	
MAIL DATE	DELIVERY MODE
08/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/511,699	DOI ET AL.	
	Examiner	Art Unit	
	KIMBERLY K. MCCLELLAND	1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☒ They raise the issue of new matter (see NOTE below);

(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: *36 and 38-51*.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

1. 11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791

/Kimberly K McClelland/
Examiner, Art Unit 1791

Continuation of 3. NOTE: The newly added limitation of first and second devices which penetrate the surface of the uncured adhesive layer has not been previously considered and requires further search and consideration. This limitation also appears to be new matter. While support exists for penetrating the surface of the uncured adhesive (See Figures 3 and 10-11), there does not appear to be support for penetrating the surface of the uncured adhesive with first and second devices. In these figures only first devices are shown. Applicant is invited to specifically clarify where support for first and second devices penetrating the surface of the uncured adhesive layer may be found. The amendment is also not found to clarify issues for appeal.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 08/08/08 have been fully considered but they are not persuasive.
Applicant's arguments are primarily based on the claims as amended. These claims have not been entered for the reasons stated above. Consequently, these arguments are not persuasive.
As to applicant's arguments that Hayashi does not disclose "embedding", examiner disagrees. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." The Federal Circuit's en banc decision in Phillips v. AWH Corp., 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). The Merriam Webster Online Dictionary defines the term "embed" as "a: to enclose closely in or as if in a matrix embedded in stone> b: to make something an integral part of embedded in our language>". Applicant has provided no alternative definition in the current specification. Consequently, the term must be defined as used by one of ordinary skill in the art. After pressing, the adhesive of Hayashi is made integral with the devices, meeting the requirements of the limitation "embedding". Therefore, the "fixing" step disclosed by Hayashi meets applicant's claimed "embedding" step. Applicant is also pointed to Figures 10-11 of Hayashi which illustrate penetrating of the uncured adhesive.
Applicant has relied on certain passages as specifically disclosing curing the adhesive layer prior to transfer. However, applicant has not addressed paragraph 0226 of Hayashi, cited by examiner for disclosing transferring devices prior to complete curing of the adhesive. While Hayashi also discloses curing the adhesive prior to curing in certain embodiments, these embodiments are not limiting to the entire disclosure of Hayashi. Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). See MPEP 2125 [R-5]. For clarification purposes, the following disclosure of Hayashi is relied upon by the examiner as showing stripping the first substrate prior to cooling the adhesive to room temperature, when the adhesive is completely cured: "When the thermoplastic adhesive layer 82 is softened, the heating is stopped, to cool and cure the thermoplastic adhesive layer 82, so that the devices 3 are transferred to the transfer substrate 83 via the thermoplastic adhesive layer 82. The transfer substrate 83 is then peeled from the base substrate 1, and the thermoplastic adhesive layer 82 is cooled to room temperature, whereby the devices 3 are certainly fixed to the transfer substrate 83." The disclosure of Hayashi of cooling the adhesive layer to room temperature after stripping the substrate in order to be "certainly fixed" (i.e. hardened) the adhesive layer meets applicant's claimed limitation of stripping the other-side devices from the substrate thereby holding the other-side devices in an embedded state in the uncured adhesive layer (See Hayashi, paragraph 0226). The language used by Hayashi of "the heating is stopped to cool and cure the thermoplastic adhesive" is the purpose of stopping the heating step, and is not an actual description of the curing step. Hayashi specifically discloses cooling the transfer substrate to room temperature after the transferring operation. .